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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT SEATTLE

9 ABDIKARIM KARRANI,

10 Plaintiff,

11 v.  
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13 JETBLUE AIRWAYS CORPORATION, a  
14 Delaware Corporation,

15 Defendant.  
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Case No. C18-1510 RSM

ORDER GRANTING IN PART AND  
DENYING IN PART PLAINTIFF'S  
MOTION TO COMPEL

17 This matter comes before the Court on Plaintiff Abdikarim Karrani's Fed. R. Civ. P. 37(a)  
18 motion to compel various discovery requests. Dkt. #19. For the reasons set forth below,  
19 Plaintiff's Motion is GRANTED in part and DENIED in part.

20 **I. BACKGROUND**

21 Mr. Karrani is an 81-year-old U.S. citizen born in Somalia, now residing in Tukwila,  
22 Washington. Mr. Karrani filed this suit pursuant to 42 U.S.C. § 1981, challenging JetBlue's  
23 removal of Mr. Karrani from a flight traveling from New York to Seattle on January 20, 2018  
24 ("Flight 263"). A medical emergency during the flight required the plane to divert to Logan  
25 Airport in Billings, Montana instead of landing at its Seattle destination. Before the emergency  
26 landing in Billings, an interaction occurred between JetBlue flight attendant Cindy Pancerman  
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ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFF'S MOTION TO  
COMPEL - 1

1 and Mr. Karrani following Mr. Karrani's attempt to use the front lavatory and finding it occupied  
2 by another passenger. The facts of this interaction between Ms. Pancerman and Mr. Karrani are  
3 disputed by both parties.

4 Mr. Karrani claims that after Ms. Pancerman asked him to use the rear lavatory, he replied  
5 that he would wait for the front restroom to open up. Dkt. #1, ¶2.13. He alleges that Ms.  
6 Pancerman then physically pushed him towards the back, which startled Mr. Karrani as he  
7 attempted to brush her hand off him. Dkt. #1, ¶2.14. JetBlue, in contrast, claims that when Ms.  
8 Pancerman attempted to guide Mr. Karrani to the rear lavatory, he struck her. Dkt. #23-1, Ex. B  
9 ("Pancerman Dep.") at 17:23-20:25. JetBlue claims that due to Mr. Karrani's refusal to comply  
10 with a crew member's instruction and his physical contact with her, the Captain decided to remove  
11 Mr. Karrani from the flight. Dkt. #22 at 2.

14 When the plane landed in Billings, airport police boarded the plane and asked Mr. Karrani  
15 to leave the flight. Mr. Karrani agreed, and the police escorted him off the plane. The remaining  
16 passengers were transported to Seattle. Mr. Karrani paid for a hotel room to stay overnight in  
17 Billings and purchased a new flight on Delta from Billings to Seattle the next day. He claims that  
18 he contacted JetBlue seeking a refund for the Delta flight, but JetBlue did not respond to his  
19 request. On October 15, 2018, Mr. Karrani filed this lawsuit.

21 On February 6, 2019, Mr. Karrani served Plaintiff's First Set of Interrogatories and  
22 Requests for Production on JetBlue. JetBlue served its response on March 15, 2019, with  
23 objections to several of Plaintiff's interrogatories and requests for production. After Counsel  
24 conferred on March 27, 2019 in an effort to resolve the disputes, Plaintiff filed this First Motion  
25 to Compel on March 29, 2019. Dkt. #19 at 6.

1 On May 9, 2019, while Plaintiff's first Motion was pending, Plaintiff filed a Second  
2 Motion to Compel discovery related to complaints and prior incidents regarding Ms. Pancerman.  
3 Dkt. #35. Plaintiff's Second Motion was filed after the close of discovery on April 29, 2019 and  
4 is currently under review by the Court. Consequently, this Order addresses the discovery disputes  
5 raised in Plaintiff's First Motion to Compel, with the exception of complaints and prior incidents  
6 regarding Ms. Pancerman. See Dkt. #19 at 11.  
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## 8 II. DISCUSSION

### 9 A. Legal Standard

10 "Parties may obtain discovery regarding any nonprivileged matter that is relevant to any  
11 party's claim or defense and proportional to the needs of the case, considering the importance of  
12 the issues at stake in the action, the amount in controversy, the parties' relative access to relevant  
13 information, the parties' resources, the importance of the discovery in resolving the issues, and  
14 whether the burden or expense of the proposed discovery outweighs its likely benefit." Fed. R.  
15 Civ. P. 26(b)(1). Information within this scope of discovery need not be admissible in evidence  
16 to be discoverable. *Id.* "District courts have broad discretion in determining relevancy for  
17 discovery purposes." *Survivor Media, Inc. v. Survivor Prods.*, 406 F.3d 625, 635 (9th Cir. 2005)  
18 (citing *Hallett v. Morgan*, 296 F.3d 732, 751 (9th Cir. 2002)). If requested discovery is not  
19 answered, the requesting party may move for an order compelling such discovery. Fed. R. Civ.  
20 P. 37(a)(1). The party that resists discovery has the burden to show why the discovery request  
21 should be denied. *Blankenship v. Hearst Corp.*, 519 F.2d 418, 429 (9th Cir. 1975).  
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### 25 B. Witness Disclosures

26 Plaintiff requests information on potential witnesses on the plane flight. Interrogatory No.  
27 1 asks JetBlue to:  
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1 Identify every person who has any knowledge or information  
2 pertaining to the facts and occurrences that are the subject of this  
3 lawsuit, the claims and defenses in the case, or with regard to the  
4 matters asserted in Plaintiffs' Complaint or Defendant's Answer  
5 thereto.

6 For each person identified, Plaintiff requests their name, address, most recent contact  
7 information and email. For any JetBlue employees, Plaintiff requests their job title(s) in 2018.  
8 Additionally, Interrogatory No. 8 asks JetBlue to "identify every passenger" on the subject flight,  
9 including their full name, present address and phone numbers. Request for Production No. 14  
10 seeks all documents related to this interrogatory.

11 With respect to JetBlue employees, Plaintiff already deposed the five crew members on  
12 the flight as well as the Airport Operations Manager at the Seattle-Tacoma ("Sea-Tac") airport.  
13 Dkt. #22 at 4. This leaves the remaining issue of the plane's passengers.

14 Plaintiff seeks discovery of the names and contact information for all passengers on board  
15 Flight 263, on the basis that they potentially witnessed the incident between Mr. Karrani and Ms.  
16 Pancerman. Dkt. #19 at 13. JetBlue has provided to Mr. Karrani the available contact information  
17 for passengers seated in the first three rows and all passengers named in the Incident Reports  
18 related to the flight. Dkt. #22 at 5. Mr. Karrani contends that because flight attendant Mary Ann  
19 Salvador, standing in Row 25, claimed she could see the events from the back of the plane, then  
20 all passengers on the plane potentially could have witnessed the incident. Dkt. #19 at 13.

21 Federal law prohibits airline carriers from releasing passenger contact information. *See*  
22 14 C.F.R. §§ 243.7(a), 243.9. For that reason, a party seeking to compel disclosure must  
23 sufficiently justify to the court its reasons to override this important privacy policy. *See Raub v.*  
24 *US Airways, Inc.*, No. CV 16-1975, 2017 WL 2633430, at \*2 (E.D. Pa. June 19, 2017). With  
25 respect to witness disclosure for incidents on airplanes, courts have held that release of passenger  
26 information is not warranted when, after identifying those passengers in the best position to  
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1 witness the incident, any remaining passengers would have little or no information to add to their  
2 testimonies. *See id.*

3 Here, Plaintiff has failed to show that disclosure of the full passenger manifest—the names  
4 and contact information of all passengers on Flight 263—is proportional to the needs of this case.  
5 *See* Fed. R. Civ. P 26(b)(1). JetBlue produced the available contact information for all passengers  
6 seated in Rows 1 through 3, the rows closest to the front lavatory, as well as those passengers  
7 mentioned in the Incident Reports related to the flight in Seats 4A, 5C, and 17B. Dkt. #20-1 at  
8 50. Of the disclosed passengers, three submitted statements to law enforcement or JetBlue  
9 regarding the incident between Ms. Pancerman and Mr. Karrani. Dkt. #22 at 5. Plaintiff has not  
10 made a sufficient showing of need for the remaining passengers’ contact information to justify  
11 the Court compelling production of the full passenger manifest. For that reason, Plaintiff’s  
12 Motion to Compel is denied as to these requests.

### 13 **C. Personnel Files**

14 Request for Production No. 2 requests the personnel files for every employee identified  
15 in answer to Interrogatory No. 1. As defined in Plaintiff’s Interrogatories, a personnel file  
16 includes all documents related to an individual’s employment. Dkt. #20-1 at 26. Plaintiff asserts  
17 that the personnel files for the JetBlue pilot, flight attendants, and desk attendant supervisor at the  
18 Sea-Tac airport are relevant to establishing a “pattern and practice” of discriminatory intent from  
19 which the jury could conclude that removal of Mr. Karrani from Flight 263 was motivated by a  
20 discriminatory animus. Dkt. #19 at 14-15.

21 JetBlue objects on the basis that such requests are “disproportionate to the needs of the  
22 case and the importance of the requested matters” and “unnecessarily invade the reasonable  
23 privacy interests of JetBlue’s employees.” Dkt. #20, Ex. 4 at 4. Since the filing of this motion,  
24

1 JetBlue has agreed to produce Ms. Pancerman's personnel file. Dkt. #29 at 9. This leaves the  
2 question of discoverability as to the remaining flight crew and the supervisor that Mr. Karrani  
3 spoke with at the JetBlue counter at SeaTac.

4 In civil rights discrimination claims, courts have found that personnel files are  
5 discoverable. *See McCoo v. Denny's Inc.*, 192 F.R.D. 675, 679 (D. Kan. 2000) (holding that  
6 claims of discriminatory treatment under 42 U.S.C. § 1981 for denial of restaurant service  
7 justified discovery of personnel files for restaurant employees where incident occurred).  
8 However, discoverability is limited to those individuals "alleged to have engaged in the  
9 discrimination or harassment at issue or played an important role in the employment decision or  
10 incident that gives rise to the lawsuit." *Id.* at 687. Employees who played "an important role" in  
11 the event include those who directly participated in it as well as those who witnessed it. *See id.*  
12 The Sea-Tac supervisor who spoke with Mr. Karrani *after* his removal from the plane does not  
13 fall within this category. The Court thus denies Plaintiff's Motion to Compel to the extent it seeks  
14 personnel files of the supervisor.  
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18 With respect to the remaining JetBlue flight crew, Plaintiff claims that all five crew  
19 members on Flight 263 witnessed at least part of the events leading to Mr. Karrani's removal,  
20 including the Captain's decision to remove Plaintiff from the flight. Dkt. #29 at 10. For this  
21 reason, the Court finds Plaintiff entitled to discover the personnel files of the flight crew.  
22 Production of this information shall be made in accordance with parties' Protective Order. *See*  
23 Dkt. #15.  
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#### 25 **D. Litigated Discrimination Claims**

26 Plaintiff's narrowed request under Interrogatories 2-3 and Requests for Production 3-6  
27 seeks information on other lawsuits by passengers alleging discrimination since January 2014.  
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1 JetBlue provided a supplemental production of litigated claims since 2013, which Plaintiff alleges  
2 was not in good faith and pertained mostly to “pro se” lawsuits making frivolous claims. Dkt.  
3 #29 at 7. Specifically, Plaintiff seeks disclosure about “more substantive and meaty cases” filed  
4 against JetBlue that exist but were not disclosed. *Id.* (citing racial discrimination case against  
5 JetBlue, *Ramsey Abdallah v. JetBlue, et al.*, 2:14-cv-01050-JLL-JAD (D.N.J., Feb. 18, 2014)).  
6

7 Here, Defendant has failed to meet its burden to show why the discovery of  
8 discrimination-related litigation against JetBlue within the past five years should be denied. *See*  
9 *Blankenship v. Hearst Corp.*, 519 F.2d 418, 429 (9th Cir. 1975). JetBlue contends that Plaintiff’s  
10 request is moot because of JetBlue’s supplemental production on April 12, 2019. Dkt. #22 at 2.  
11 However, JetBlue’s failure to produce any records related to the *Ramsey Abdallah* case obviates  
12 Defendant’s mootness claim. To the extent that additional responsive records exist, the Court  
13 will grant Plaintiff’s Motion to Compel.  
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#### 15 **E. Trainings on Discrimination and Implicit Bias**

16 Plaintiff’s Requests for Production Nos. 10 and 23 request all documents related to the  
17 training received by JetBlue employees on or relating to (a) race or national origin discrimination  
18 and (b) implicit bias. Dkt. #19 at 10-11. JetBlue contends that it produced all material responsive  
19 to these requests in its supplemental production on April 12, 2019. Dkt. #22 at 2. Plaintiff claims  
20 that the supplemental documents are neither responsive nor relevant, as they apply to outside  
21 companies—not JetBlue employees. Dkt. #29 at 7.  
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23 The Court finds that Plaintiff is entitled to ascertain what training policies on race and  
24 national origin discrimination and implicit bias, if any, were in place for JetBlue flight crew on  
25 Flight 263 at the time of the incident. For training-related documents that were current at the time  
26 of the incident, JetBlue has failed to meet its burden to show why discovery on these requests  
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1 should be denied. To the extent that JetBlue has not fully responded to these requests, the Court  
2 will grant Plaintiff's Motion to Compel discovery of current training materials.

### 3 **F. Persons Answering Interrogatories**

4 Plaintiff's Interrogatory No. 13 asks JetBlue to:

5 Identify the person or persons answering these interrogatories  
6 including anyone who contributed information used in answering  
7 these interrogatories. If more than one individual provided the  
8 answers or contributed any information used in answering these  
9 interrogatories, identify the specific interrogatory answered by each  
person and the information provided.

10 Sheridan Decl., Dkt. #20, Ex. 4. Through this request, Plaintiff effectively seeks discovery on  
11 JetBlue's discovery process. Such "meta-discovery" is highly disfavored, and courts may only  
12 allow such discovery "where there is some indication that a party's discovery has been insufficient  
13 or deficient." *Jensen v. BMW of N. Am., LLC*, 328 F.R.D. 557, 566 (S.D. Cal. 2019); *see also*  
14 *Freedman v. Weatherford Int'l Ltd.*, No. 12-cv-2121-LAK-JCF, 2014 WL 4547039, at \*2  
15 (S.D.N.Y. Sept. 12, 2014) ("[R]equests for such 'meta-discovery' should be closely scrutinized  
16 in light of the danger of extending the already costly and time-consuming discovery process ad  
17 infinitum.").

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20 Mr. Karrani argues that he "needs to know who contributed information in support of each  
21 request" for the purposes of knowing who to cross-examine at trial. Dkt. #19 at 16. Yet document  
22 custodians or individuals collecting those materials have no first-hand knowledge of the incident,  
23 and JetBlue has no intent to call any such individuals at trial. Dkt. #22 at 10. Plaintiff's  
24 justification is not sufficient, and the Court denies the motion to compel as to this request.  
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### 26 **III. CONCLUSION**

27 Having reviewed the relevant briefing, the declarations and exhibits attached thereto, and  
28 the remainder of the record, the Court hereby finds and ORDERS that Plaintiff's March 29, 2019

ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFF'S MOTION TO  
COMPEL - 8



1 Motion to Compel (Dkt. #19) is GRANTED in part and DENIED in part. For the following  
2 categories of documents, JetBlue shall produce the requested discovery **within fourteen (14)**  
3 **days of this Order:**

- 4 1) Personnel files for the five members of the flight crew (Plaintiff's Request for  
5 Production No. 2);
- 6 2) Information on other lawsuits against JetBlue by passengers alleging discrimination  
7 since January 2014 (Plaintiff's narrowed Interrogatories 2-3 and Requests for  
8 Production 3-6); and
- 9 3) All documents related to the training received by JetBlue employees on or relating to  
10 (a) race or national origin discrimination and (b) implicit bias that were current at the  
11 time of Flight 263 (Plaintiff's Requests for Production Nos. 10 and 23).

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15 DATED this 28 day of May 2019.

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18 RICARDO S. MARTINEZ  
19 CHIEF UNITED STATES DISTRICT JUDGE  
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